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December 15, 2004

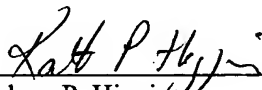
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of R. Sandeman, D. Chandler, A. Duncan, and P. Hay
Application No. 10/674,196 Group No. 1625
Filed September 29, 2003 Examiner Paul J. Killos
Insecticide and Method of Controlling Insects

(Atty. Docket No. P27,299 USA)

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on Wednesday, December 15, 2004.


Kathleen P. Higgins

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY TO EXAMINER'S NOVEMBER 15, 2004 ELECTION OF SPECIES REQUIREMENT

Sir:

Applicants submit that the Examiner's November 15, 2004 election of species requirement is deficient because the Examiner has failed to identify any of the

species for the election required. Such identification of species for election is clearly required by the MPEP. MPEP §809.02(a). As such species have not been identified, applicants do not have a list of species from which to choose an elected species.

Applicants telephoned the Examiner on December 8, 2004 and left a message regarding the above but did not receive a response. As the deadline for responding to the Requirement without payment of fees is December 15, 2004, applicant is filing this Reply.

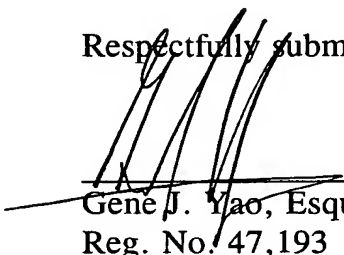
While the Examiner failed to define any species, applicants note that, on August 25, 2004, the former Examiner, Examiner Desai, for this case telephoned Patrick J. Kelly, attorney for applicants, and proposed an election of species requirement. In response thereto, during an August 31, 2004 telephone conference with the Examiner, insecticides comprising N-phosphomethyl-L-valine (also known as 3-methyl-2-(phosphomethylamino)butyric acid) and methods for making and using the same were elected as the species to which the claims shall be restricted should no generic claim be finally held allowable. Applicants accordingly elect, with traverse, such species in response to the present election of species requirement. Claims 28 to 32 and 34 to 55 read on this species. Traversal is based

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on the fact that the Examiner failed to identify any species in his requirement.

Respectfully submitted,



Gene J. Yao, Esquire
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DEC 17 2004

**TRANSMITTAL LETTER
(General - Patent Pending)**

Docket No.
P27,299 USA

In Re: Application Of: R. Sandeman, D. Chandler, A. Duncan and P. Hay

Serial No.
10/674,196

Filing Date
September 29, 2003

Examiner
Paul J. Killos

Group Art Unit
1625

Title: INSECTICIDE AND METHOD OF CONTROLLING INSECTS

TO THE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE:

Transmitted herewith is:

Reply to Examiner's November 15, 2004 Election of Species Requirement.

in the above identified application.

- ☒ No additional fee is required.
- ☐ A check in the amount of _____ is attached.
- ☒ The Director is hereby authorized to charge and credit Deposit Account No. **19-5425** as described below.
- ☐ Charge the amount of _____
- ☒ Credit any overpayment.
- ☒ Charge any additional fee required.



Signature

Dated: December 15, 2004

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Kathy P. Higgins

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